

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12631 of 2020

Arising Out of PS. Case No.-283 Year-2019 Thana- JHAJHA District- Jamui

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RAJIV SHARMA, Son of Late Krishna Prasad Sharma, Resident of Village -
Khalasi Mohalla, Ward No.05, P.S.- Jhajha, Dist.- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP
For the Informant : Mr. Alok Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 02-06-2020 The matter has been taken up through virtual Court
proceeding.

Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since
19.12.2019 in a case registered for the offences punishable
under Sections 302, 201, 120B, 34 of the Indian Penal Code and
Section 27 of the Arms Act.

The prosecution case as per the written report of Md.
Akbar Ansari submitted before the S.H.O., Jhajha Police



Station is to the effect that one Mannu Khan called the brother of the informant, Abdul Kalam Ansari on his mobile phone and conveyed him that co-accused, Bittu Khan and abba (Matin Khan) want to see him and waiting for him in the house of co-accused, Mannu Khan. Thereafter, the brother of the informant along with one Israel Haque went on a motorcycle. After some time, the informant called on the mobile phone of his brother, but it was picked up by co-accused, Mannu Khan and he responded that the informant's brother will return back to home in some time. Thereafter, the informant again made a call on the mobile phone of his brother, but then none picked up his call. Then the informant went to the house of co-accused, Israel Haque and inquired about his brother, who replied that he saw co-accused, Mannu Khan, Bittu Khan, Matin Khan and the petitioner, Rajiv Sharma along with two unknown in the company of his brother standing near Almirah go-down of co-accused, Mannu Khan. Thereafter, they entered into the Almirah go-down of co-accused, Mannu Khan and informant's brother asked co-accused, Israel Haque to return from there. Thereafter, the informant informed the police about the incident. Subsequently, the broken mobile phone, motorcycle and dead body of the informant's brother with fire



arm injury was recovered and the lungi of the victim was recovered from the Almirah go-down of co-accused, Mannu Khan.

It is submitted by learned counsel for the petitioner that the petitioner has been made accused only because the petitioner was lastly seen with the victim and in fact, the informant did not see himself the petitioner in the company of his brother. There is no recovery from the possession of the petitioner and only on the basis of suspicion, the accusation has been levelled against him. Moreover, the investigation has already been concluded and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the informant submits that the petitioner was seen in the company of the informant's brother immediately after the victim was killed and the theory of last seen has been supported by many witnesses during investigation.

Learned APP for the State submits that it is a case of circumstantial evidence and the petitioner along with the other co-accused was last seen with the informant's brother.

Considering the fact that the accusation is based on



circumstantial evidence and the investigation has already been concluded, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned SDJM, Jhajha, Jamui, in connection with Jhajha P.S. Case No.283 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned SDJM, Jhajha, Jamui, in connection with Jhajha P.S. Case No.283 of 2019.

The learned Court below is at liberty to further extend



the period of provisional bail if the lock down is not over in next
three months.

(Dinesh Kumar Singh, J)

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